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Approved For Release 2002/05/16 : CIA-RDP82-00357R000200040013-6

IN FPM Chapter 315 and FPM  
Supplement 990-1 and 296-31  
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FPM LTR. 315-2

12 OCT 1965

UNITED STATES CIVIL SERVICE COMMISSION

## FEDERAL PERSONNEL MANUAL SYSTEM

### LETTER

FPM LETTER NO. 315-2

Washington, D.C. 20415

September 24, 1965

**SUBJECT:** Noncompetitive Career or Career-Conditional Appointment of Certain Present and Former Foreign Service Personnel

*Heads of Departments and Independent Establishments:*

Executive Order 11219, PROVIDING FOR THE APPOINTMENT IN THE COMPETITIVE SERVICE OF CERTAIN PRESENT AND FORMER OFFICERS AND EMPLOYEES OF THE FOREIGN SERVICE, was signed by the President on May 6, 1965 (attachment 1).

The order authorizes the Commission to issue regulations and to prescribe the conditions for noncompetitive appointment of present and former Foreign Service personnel. The regulations and the instructions for their use are in this letter.

Regulation 315.606 (attachment 2) provides that present and former officers and employees of the Foreign Service who were appointed under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that act, may be appointed in the competitive service if (a) the Commission has concurred in the candidate's present or former agency's plan for noncompetitive entry of civil service personnel into the Foreign Service positions of the agency and (b) the candidate meets the conditions for noncompetitive appointment prescribed by the Civil Service Commission.

The Commission has concurred in the plan of the State Department and the Department is issuing regulations facilitating the entry of career civil service personnel into its Foreign Service Officer Corps and its Foreign Service Staff. Therefore, present and former Foreign Service personnel of the State Department that qualify for appointment under Executive Order 11219 are now eligible for entry into the competitive service. Interchange between the two services will make possible better utilization of the manpower resources available in both career systems.

Other agencies with employees appointed under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements that act, (such as the Agency for International Development, the Peace Corps, and the United States Information Agency) are also expected to negotiate agreements with the Commission to facilitate interchange of employees between the civil service and their Foreign Service positions. Employees of these agencies will not be eligible for appointment under regulation 315.606 until the Commission has

INQUIRIES: Personnel Management Section, Code 183, Extension 7465

CSC CODE 315, Career and Career-Conditional Employment

DISTRIBUTION: FPM

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concurring in the agency's plan for entry of civil service personnel into their Foreign Service positions. Agencies will be advised of Commission concurrence in agency plans and the eligibility of employees for entry into the competitive service.

#### Authority for Appointments

Agencies may now appoint certain present and former State Department Foreign Service personnel to competitive positions under regulation 315.606 of the Commission's regulations. Appointments must be made in accordance with the provisions of this letter.

#### Basic Eligibility Requirements

In order to be eligible for appointment under regulation 315.606, the present or former officer or employee of the Foreign Service:

- a. Must be qualified for the position in the competitive service;
- b. Must have been appointed in the Foreign Service under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that act;
- c. Must have served in the Foreign Service under an unlimited, career-type appointment and, immediately before his separation from that appointment, he must have completed at least one year of continuous service without a break of a work day under one or more nontemporary appointments in the Foreign Service which may include the service that made him eligible for his career-type appointment; and
- d. Must have served in an agency that provides a plan, in which the Civil Service Commission has concurred, for noncompetitive entry of civil service employees into the Foreign Service positions of the agency.

Qualifying service in State Department. State Department appointments that are unlimited, career-type appointments under c, above, are: (1) Foreign Service Officer Appointment; (2) FSS (Foreign Service Staff) Appointment - Regular; and (3) FSS Appointment - Resident. Service under a FSS Limited-Indefinite Appointment or a FSS Limited-Indefinite Appointment (Resident) is creditable toward the 1-year continuous service if the limited-indefinite appointment is changed without a break in service of a work day to a FSS Appointment - Regular or a FSS Appointment - Resident and service under the limited-indefinite appointment is credited toward probation under such appointment.

Time Limits

There is no time limit on when an appointment may be made under regulation 315.606 of a preference eligible or a person who completed at least three years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in the Foreign Service. Otherwise, the employee must be appointed within three years after his separation from his career-type appointment in the Foreign Service.

Types of Appointment

1. Appointments under regulation 315.606 are career appointments if the candidate:
  - a. Has completed at least three years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from his unlimited, career-type appointment in the Foreign Service which may include the service that made him eligible for such career-type appointment; or
  - b. Is appointed to a position in the competitive service required by law or Executive order to be filled on a permanent or career basis.
2. Otherwise, appointments under regulation 315.606 are career-conditional. Career-conditional appointments will be converted to career appointments upon completion of the 3-year service requirement for career tenure.
3. In career-conditional appointments, credit toward career tenure may begin with the Foreign Service only if the person is appointed under regulation 315.606 within 30 days after separation from his career-type appointment in the Foreign Service. Otherwise, a person given a career-conditional appointment is required to serve a full 3-year period as a career-conditional employee.

Crediting Foreign Service for Career Tenure

For appointment under regulation 315.606, foreign service rendered prior to the candidate's separation from a career-type Foreign Service appointment is creditable toward:

- The 3-year service requirement for career appointment; or
- Career tenure under a career-conditional appointment made within 30 days after separation from the Foreign Service, under the following conditions:

- a. Creditable service may begin with a nontemporary appointment in Foreign Service. Nontemporary appointments are:
  - (1) Appointments without condition or limitation; and
  - (2) Appointments that made the employee eligible for his unlimited, career-type appointment provided such appointment is changed without break in service of a work day to a career-type Foreign Service appointment.
- b. Time off the agency's rolls. A break in service of 30 calendar days or less between periods of creditable nontemporary service does not interrupt the continuity of substantially continuous service for career tenure, but the break itself is not counted for completion of 3-years of service. A break in service of more than 30 calendar days between periods of creditable nontemporary service interrupts the continuity of substantially continuous service and service prior to the break is not counted.
- c. Time in a nonpay status. The first 30 calendar days of any period of leave without pay, furlough, suspension, or absence without leave under a nontemporary Foreign Service appointment is creditable.

Qualifying service in State Department. State Department appointments that are creditable as nontemporary appointments for career tenure are: (1) Foreign Service Officer Appointment; (2) FSS (Foreign Service Staff) Appointment - Regular; and (3) FSS Appointment - Resident. Service under a FSS Limited-Indefinite Appointment or FSS Limited-Indefinite Appointment (Resident) is creditable for career tenure if the limited-indefinite appointment is changed without a break in service of a work day to a FSS Appointment - Regular or a FSS Appointment - Resident and service under the limited-indefinite appointment is credited toward probation under such appointment.

Example 1. An employee served continuously under a nontemporary Foreign Service appointment from 4-1-62 through 4-1-64; he was separated and again appointed in Foreign Service on 5-15-64 and served continuously until 6-1-65. He is eligible only for career-conditional appointment under regulation 315.606 because there was a break in service of more than 30 calendar days. If appointed under regulation 315.606 on 6-21-65, service counting toward career tenure would begin on 5-15-64, but the break itself would not be counted toward career tenure; if appointed on 7-2-65, service counting toward career tenure would begin on 7-2-65. If the first break in service had been 30 days or less, the employee would meet the service requirement for career appointment under regulation 315.606 because service totalled more than three years at the time of separation from Foreign Service.

Example 2. If an employee was on leave without pay under a nontemporary Foreign Service appointment, say from 7-1-64 through 8-15-64 and again from 9-1-64 through 10-15-64, 60 calendar days would be credited for career tenure, i.e., 30 calendar days for each period; the excess nonpay time in each period would not be credited.

#### Meeting Qualifications Standard

The appointee must meet the Commission's qualification standard for the position to which appointment is made (see instructions in section 4-3, FPM Chapter 338).

#### Acquisition of Competitive Status

The employee acquires a competitive status upon appointment. He is not required to serve a new probationary period.

#### Appointment Documents and Determinations

The agency must secure the required appointment documents and make the necessary appointment determinations. Information on obtaining appointment documents and making appointment determinations is in FPM Supplement 296-31, appendixes A and B. The following paragraphs discuss how particular types of documents or determinations apply to appointment under regulation 315.606.

Citizenship. --- The appointee must meet the citizenship requirements (see FPM Chapter 338, subchapter 1).

Members of family. --- The members-of-family restriction applies unless the employee is entitled to veteran preference (see FPM Chapter 338, subchapter 2).

Apportionment. --- The career-conditional appointment of a nonpreference candidate to an apportioned position is subject to apportionment quotas. Proof of residence is required for appointment under the conditions described in FPM Chapter 338, subchapter 3.

Physical fitness. --- The appointing officer must determine that the appointee is qualified physically to perform the duties of the position. A new medical certificate is required in all cases where one is not already on file. For instructions as to whether a new medical certificate is required when one is already on file, see FPM Supplement 296-31, appendix A, subchapter S2.

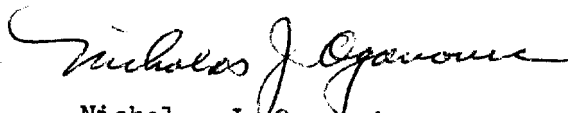
Investigation. --- Appointments are subject to investigation (see FPM Supplement 296-31, appendix A, subchapter S3 for instructions on submitting investigative forms to the Commission).

Reporting Requirements

The noncompetitive appointment under regulation 315.606 is reported on Standard Form 50 as:

- a. 130 Career Appointment, or  
131 Career-Conditional Appointment, whichever is applicable, if appointment is made without break in service of one work day.
- b. 140 Career Appointment, or  
141 Career-Conditional Appointment, whichever is applicable, if appointment is made after a break in service of one or more work days.

Regulation 315.606 is cited as the appointment authority. If prior approval is obtained, also cite "SF 59", issuing office, and date.



Nicholas J. Oganovic  
Executive Director

Attachments

## **Title 3—THE PRESIDENT**

### **Executive Order 11219**

#### **PROVIDING FOR THE APPOINTMENT IN THE COMPETITIVE SERVICE OF CERTAIN PRESENT AND FORMER OFFICERS AND EMPLOYEES OF THE FOREIGN SERVICE**

By virtue of the authority vested in me by section 1753 of the Revised Statutes and the Civil Service Act (22 Stat. 403), and as President of the United States, it is hereby ordered as follows:

**SECTION 1.** Under regulations and conditions prescribed by the Civil Service Commission, a present or former officer or employee of the Foreign Service may be appointed in the competitive service if he:

- (a) Is qualified for the position in the competitive service;
- (b) Was appointed in the Foreign Service under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that Act;
- (c) Served in the Foreign Service under an unlimited, career-type appointment and, immediately before his separation from that appointment, he completed at least one year of continuous service under one or more nontemporary appointments in the Foreign Service which may include the service that made him eligible for his career-type appointment; and
- (d) Is appointed within 3 years after his separation from the Foreign Service, or he completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment, or he is entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended.

**SEC. 2.** (a) Except as provided in paragraph (b) of this section, a person appointed under Section 1 of this Order becomes a career conditional employee.

(b) A person appointed under Section 1 of this Order becomes a career employee when he:

- (1) Has completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment;
- (2) Is appointed to a position in the competitive service required by law or Executive order to be filled on a permanent or career basis; or
- (3) Has completed the service requirement for career tenure in the competitive service.

For the purpose of subparagraph (3) of this paragraph, service in the Foreign Service is creditable in meeting the service requirement only if the person concerned is appointed to a nontemporary position in the competitive service under Section 1 of this Order within 30 days after his separation from the Foreign Service.

**Sec. 3.** A person appointed to a nontemporary position in the competitive service under Section 1 of this Order acquires a competitive status automatically on appointment.

SEC. 4. Any law, Executive order, or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under Section 1 of this Order.

SEC. 5. For the purpose of this Order, a person is deemed to be an officer or employee in the "Foreign Service" if he was appointed in any agency under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that Act.

LYNDON B. JOHNSON

THE WHITE HOUSE,  
May 6, 1965.



Section 315.606. Noncompetitive appointment of certain present  
and former career Foreign Service officers and employees

Subject to the conditions prescribed by the Commission in the Federal Personnel Manual, any agency may appoint noncompetitively a present or former career officer or employee of the Foreign Service who was appointed under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that act, if:

- (a) He qualifies under the requirements set forth in Executive Order 11219; and
- (b) The Commission has concurred in his present or former agency's plan, and substantive changes thereto, for noncompetitive entry of civil service employees into the Foreign Service positions of that agency.